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SUBJECT: IRAQ'S NGO REGISTRATION WOES

Classified By: PolCouns Matt Tueller for reasons 1.4 (b) and (d)

¶1. (C REL USA GBR) Summary: In early October, the NGO Assistance Office proposed to the Council of Ministers that all NGOs formerly registered by the Ministry of Planning be forced to re-register. Although the request was denied by the Council of Ministers General Secretariat, significant numbers of NGOs that had registered with the Ministry of Planning have reported that their bank accounts and, in some cases, physical assets have been confiscated until they re-register with the NGO Assistance Office. Under an unknown authority, this office has also frozen the assets of a handful of U.S. contractors. Post continues to engage with appropriate authorities to protect U.S. assets being managed by contractors and to encourage more lenient registration policies that foster a healthy civil society. End Summary.

The misnomered NGO Assistance Office

¶2. (C REL USA GBR) The NGO Assistance Office (NGOAO), which is under the supervision of the Council of Ministers, was created to enforce CPA Order 45 (which outlines the current legal requirements for NGO registration) and to centralize NGO registrations. Dhia Hasan Humaidi, the new director of the NGO Assistance Office (NGOAO), outlined the office's responsibilities as "registering, evaluating, and punishing" NGOs in Iraq, "from north to south." The NGOAO has its main office in Baghdad, outside of the Green Zone, and a satellite office that covers Kurdistan, one that covers Central Furat, and one that covers the Basra, Karbala, and al-Qut areas. Humaidi estimated that of the 9000 NGOs currently working in Iraq, 6000 were registered.

¶3. (C REL USA GBR) Prior to the creation of the office, the Ministry of Planning was responsible for the registration procedures. According to Humaidi, the Ministry issued an indefinite license for NGOs to operate, based on a one-page application. Many of these NGOs had their headquarters outside of Iraq, and the GoI knew nothing substantial about them before granting them legal entity status.

¶4. (C REL USA GBR) Authority for registration was transferred from the Ministry of Planning to the Council of Ministers Secretary General in early 2005, where three separate

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directors ran the office before Humaidi took it over on November 28, 2007. Humaidi accused the first, Haitham al-Uribe, of registering NGOs without any application and of not following the instructions laid out in CPA Order 45. The second, Khadijah al Jabouri, also committed significant violations in registering NGOs, he said. Humaidi asserted that it was not until his former boss, Ali al-Khafaji, became director of the NGOAO that the violations in registration ceased.

¶5. (C REL USA GBR) Early in October, al-Khafaji wrote a

letter to the Council of Ministers requesting the invalidation of all of the indefinite registrations issued by the Ministry of Planning. The Secretary General of the Council of Ministers strongly responded that no one was to comply with the invalidation request. Ala Talabani, the chairperson of the CoR Civil Society Committee, also made public statements at the time, insisting that potentially affected NGOs not re-register. In his conversations with PolOff, Humaidi criticized her comments, characterizing them as promoting unlawfulness.

The NGO Registration Process

¶6. (U) CPA Order 45 (and the amendments in CPA Order 100) outline the legal requirements for NGO registration. Under these orders, registration must include the name and address of the NGO, points of contact, recent revenues and liabilities, sources (including governmental entities) of contributions to the NGO above 10,000,000 Iraqi dinar (about USD 10,000), the organization's constitution or bylaws, and a written statement of the purpose of the NGO's work in Iraq. Domestic NGOs must provide the names and addresses of all the members of the board of directors of the NGO; foreign NGOs must provide the name of the head of mission in Iraq and the name of the worldwide head of the NGO.

¶7. (C REL USA GBR) The NGOAO has expanded this process for both domestic and international NGOs to require that a representative be interviewed in one of the offices of the NGOAO and that the NGO submit the full name, address, and CV of every employee of the NGO, along with a copy of a valid identification card. The office also needs a letter confirming the work of the NGO from the local neighborhood advisory council (NAC) or district area council (DAC). Once

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this is completed, the full employee list is sent to the Ministry of Interior for vetting. If incriminating information is found about one of the employees on the list, the NGOAO is alerted, and the representative of the NGO must return to the office, to discuss the situation; the representative will then have to fire the individual from the NGO in order to proceed with the registration. According to Humaidi, 99 percent of NGOs who start the process have no problem finishing it.

¶8. (U) If 60 days elapse after the full submission of all required materials and the NGOAO has not responded, the NGO is considered registered temporarily until the NGOAO reaches a decision. Once approved, the registration is valid for one year.

Frozen Bank Accounts

¶9. (U) CPA Order 45 also gives the NGOAO the ability to conduct audits and reviews of NGOs to determine whether or not they are in compliance with the order. If they decide that the NGO is grossly out of compliance, the NGOAO can suspend the registration of the NGO for a period, or revoke the registration completely. The Prime Minister may, at his discretion, "close the operation, confiscate the property, and seal the premises" of an NGO that operates after the suspension or revocation of its registration.

¶10. (C REL USA GBR) Since the request of the NGOAO to revoke the legal status of those NGOs who registered under the Ministry of Planning, Post has received reports from all over Iraq stating that NGOs (including those who are USG grantees) are having their bank accounts frozen. One report said that all the furniture of the NGO was also confiscated. Every report indicates that the affected NGOs were registered under the Ministry of Planning. Post continues to investigate if

the NGOs registered under the Ministry of Planning are still legally registered; if so, it is unclear under what authority the GoI continues to freeze assets.

¶11. (C REL USA GBR) A few of the organizations who have been punished by the NGOAO are actually U.S. contractors, a group that derives its protections against such actions from CPA Order 17; Humaidi commented that the NGOAO froze the accounts of these organizations because they were providing funding to unregistered NGOs. Post will continue to engage the NGOAO and the Council of Ministers at all levels both to ensure the legal protections to which U.S. contractors are entitled and to urge the GoI to be more lenient with NGOs in the registration process. (Comment: Ultimately, the latter issue will only be solved when a comprehensive NGO law is enacted to replace CPA Order 45. End Comment.)

The future of the NGO Law

¶12. (C REL USA GBR) A draft NGO law produced by the UN is now being considered by the State (Shura) Council. It has the approval of both the acting Minister of State for Civil Society, Wijdan Mikhael, and the Chairperson of the CoR Civil Society committee, Ala Talabani. According to Talabani, if the Shura Council delays significantly in considering the law, she will submit the law directly to the CoR with nine other members of the CoR, which is a legitimate procedure for introducing a bill. Although she has said she will do this before the end of the current CoR session, it is more likely that she will submit the law at the beginning of next year's session.

¶13. (C REL USA GBR) The recent problems with registrations have highlighted the need for a more comprehensive NGO law to at least two high ranking officials. According to Ala Talabani, both VP Abd al-Mehdi and DPM Saleh have become vocal opponents of the registration processes and the recent asset freezes. (Comment: Perhaps not coincidentally, after the VP and the DPM became more aware of the procedures, the former Director of the NGOAO, Ali al-Khafaji, was fired and replaced with Humaidi. End Comment.)

The last throes of the Ministry of State for Civil Society?

¶14. (C REL USA GBR) Comment: The Ministry of State for Civil Society (MoSCS), which although it has no formal connection to the NGOAO is charged with supporting NGOs, has been fairly weak in reacting to these events. Without a formal Minister, the Ministry's power to shape policy affecting NGOs has been significantly reduced. Although Acting Minister Wijdan Mikhael (who is also the Minister of Human Rights) is a

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strong supporter of a completely independent civil society, her Ministry, whose day-to-day operations are lead by Director General Faris al-Shibany, chivvies the USG to disclose every instance of financial support to Iraqi NGOs. On the other hand, in the last two months, al-Shibany and the Ministry have gone out of their way to help NGOs re-register; however, without the budget of a full ministry, there has been little success. End Comment.

¶15. (C REL USA GBR) According to NGOAO Director Humaidi, PM Maliki has already put together a proposal to eliminate all of the Ministries of State and to make them into commissions under the CoR. The NGOAO would remain under the purview of the Council of Ministers. In addition, Ala Talabani and others are considering rewriting the UN draft of the NGO law to eliminate the role of the Ministry of State for Civil Society completely.

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